

Note changes made by the Court at ¶¶ 10, 14.

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Attorneys for Plaintiff Travelers Property Casualty Company of America

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

TRAVELERS PROPERTY
CASUALTY COMPANY OF
AMERICA, a Connecticut corporation.

Plaintiff,

v.

LIBERTY MUTUAL FIRE
INSURANCE COMPANY, et al.,

Defendants

Case No. 8:22-cv-00930-SSS-KES

PROTECTIVE ORDER

TO ALL PARTIES AND COUNSEL:

After considering the stipulation filed by TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA (“Travelers”), LIBERTY MUTUAL FIRE INSURANCE COMPANY (“Liberty Mutual”), and ZURICH AMERICAN INSURANCE COMPANY (“Zurich”), and good cause appearing, **IT IS HEREBY ORDERED THAT:**

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1 1. This Protective Order shall govern all items or information that are
2 produced, disclosed, or generated in connection with discovery, including but not
3 limited to all discovery responses, deposition testimony, deposition exhibits or other
4 documents, including electronic media, and tangible materials of any kind, however
5 communicated, produced in this litigation (collectively referred to as “Materials”) that
6 the Parties to this action may designate as “CONFIDENTIAL.” As used herein,
7 “Parties” refers to the parties to this action.

8 2. The Parties may designate as “CONFIDENTIAL” any Materials or
9 information of a proprietary, financial, or competitively sensitive nature; Materials or
10 information that is protected against disclosure to any non-Party by any applicable
11 privilege, work product protection, or other statutory or common law protection,
12 including Materials created or produced in connection with the Underlying Litigation;
13 research, technical, commercial or financial information that the producing Party has
14 maintained as confidential; confidential personal identification information; or any
15 confidential insurance information, including, but not limited to, any such claims
16 information, by placing in a conspicuous location on the Materials or information the
17 word “CONFIDENTIAL” or by informing all Parties in writing that a specific group
18 of clearly identified documents (identified by bates number or similar designation) are
19 confidential.

20 3. By agreeing to the procedure set forth in this Protective Order to govern
21 how discoverable Materials and information are to be designated “CONFIDENTIAL,”
22 produced, and handled in this litigation, no Party is waiving any applicable privilege,
23 work-product protection, fiduciary duty of loyalty or confidentiality, or any statute,
24 rule, or common law provision that prohibits or restricts disclosure of any documents
25 or other information to any other Party to this litigation. Any Party claiming a right to
26 receive documents or other information in discovery in this action must support that
27 claimed right independent of the existence or contents of this Protective Order and
28 cannot claim to have obtained any such right by virtue of the existence or contents of

1 this Protective Order. Nothing contained in this Protective Order shall constitute an
2 admission or determination that any Material or information is confidential, subject to
3 discovery, or protected from discovery.

4 4. As used herein, the “Underlying Litigation” refers to the action of T-12
5 Three, LLC v. Turner Construction Company, et al., filed in the Superior Court of
6 California for the County of Orange, Case No. 30-2011-00514568-CU-BC-CXC
7 (“Underlying Action”).

8 5. All non-public material related to the representation and defense of Turner
9 Construction in the Underlying Litigation, including any invoices relating to the
10 defense of Turner in the Underlying Action, that is produced by the Parties in this action
11 shall be presumed “CONFIDENTIAL” pursuant to the terms of this Protective Order.

12 6. Any Party may also designate as “CONFIDENTIAL” any portion of a
13 deposition transcript of its agent or employee, the agent or employee of another Party,
14 or of a third party that contains confidential information relating to that Party by a
15 statement on the record at the time of the deposition or by written designation within
16 thirty days after the deposition. If no indication on the record is made, all Materials
17 and information disclosed during a deposition shall be deemed “CONFIDENTIAL”
18 until the expiration of the thirty day period within which any Party may designate the
19 Material or information as “CONFIDENTIAL.” Any “CONFIDENTIAL” Material or
20 information that is used in the taking of a deposition shall remain subject to the
21 provisions of this Protective Order, along with the transcript pages of the deposition
22 testimony that discuss the “CONFIDENTIAL” Material or information.

23 7. No Materials or information designated as “CONFIDENTIAL” shall be
24 furnished, shown or otherwise disclosed to any person, except the following: 1) counsel
25 for the Parties and any attorneys, paralegals, assistants, clerks, and support staff
26 assisting such counsel; 2) essential employees of a Party, or other potential witnesses,
27 with whom it is considered in good faith necessary to consult in connection with the
28 prosecution or defense of this case; 3) qualified persons taking testimony, including

1 court reporters and videographers; 4) outside consultants and experts retained by the
2 Parties to consult and/or assist counsel in the preparation and trial of this litigation; 5)
3 the Court, jury, and court personnel; 6) document processing and hosting vendors, and
4 graphics, translation, design, and/or trial consulting services; and 7) any mediator
5 selected by the Parties or appointed by the Court to mediate the claims at issue in this
6 litigation and the support staff for the mediator. This restriction on the disclosure of
7 “CONFIDENTIAL” Material may be modified by court order and does not apply where
8 the designating Party has given its written consent to the disclosure.

9 8. All Materials or information designated as “CONFIDENTIAL” shall be
10 used solely for the prosecution or defense of this litigation, including dispositive
11 motions, trial, and any related appellate proceeding. The Parties’ disclosure of
12 confidential Materials or information in this litigation is made pursuant to and under
13 the protection of this Protective Order and such disclosure shall not be deemed a waiver
14 of any privilege, work product, trade secret, or other protections. A Party may use for
15 any purpose its own documents and information that it produces or discloses in this
16 litigation or obtains outside of this litigation and the use of such documents and
17 information shall not be considered a violation of this Protective Order.

18 9. Before any consultants, experts, mediators, or non-Party witnesses or
19 potential witnesses, including any former employees, in this litigation receive or review
20 Materials or information designated as “CONFIDENTIAL,” counsel for the Party
21 making the disclosure shall provide to the person to whom disclosure is planned or
22 proposed a copy of the declaration in the form attached as Exhibit “A” to this Protective
23 Order. Counsel for the disclosing Party shall maintain a complete and current file of
24 Declarations so executed for at least two (2) years after this litigation is finally
25 terminated and shall be made available to counsel for any other Party upon a showing
26 that this Protective Order has been violated or may have been violated. This paragraph
27 does not apply when showing or providing Materials to witnesses at a hearing, trial or
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1 deposition, or to any person who, as shown on the face of the document, was an author,
2 addressee, or recipient of the document, including a recipient of a copy.

3 10. Nothing contained in this Protective Order bars or restricts the Parties'
4 attorneys from rendering advice to their respective clients with respect to this litigation.
5 This Protective Order shall not prevent the use of "CONFIDENTIAL" Materials or
6 information in connection with a motion, at a hearing, at trial, or at a deposition
7 provided that the Materials shall be disclosed or displayed only upon the
8 implementation of reasonable safeguards to preserve their confidential status. Any
9 Party submitting evidence designated "CONFIDENTIAL" in connection with a motion
10 in this litigation shall apply to file the evidence under seal under Local Rule 79-5. The
11 parties shall follow Local Rule 79-5.2.2(b) when applicable. If the Court denies the
12 sealing application, the moving Party may file the evidence and unredacted papers with
13 the Court as part of public record. If possible, two (2) days prior to lodging any
14 "CONFIDENTIAL" Material or information conditionally under seal, the Party
15 intending to lodge the "CONFIDENTIAL" Material or information will endeavor to
16 contact the Party that designated the Material as "CONFIDENTIAL" to confirm that
17 the Party requires that the Material or information be conditionally filed under seal. In
18 the event that the Party that designated the Material or information as
19 "CONFIDENTIAL" does not require the Material or information to be filed under seal,
20 the Party filing the motion may file the motion and supporting Material without sealing
21 the "CONFIDENTIAL" Material or information.

22 11. The inadvertent or unintentional disclosure of "CONFIDENTIAL"
23 Materials or information, regardless of whether the Materials were designated as
24 "CONFIDENTIAL" at the time of disclosure, shall not be deemed a waiver of a Party's
25 claim of confidentiality provided that the Party asserting the claim of confidentiality
26 informs all other Parties of its claim within a reasonable time after learning of the
27 disclosure.

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1 12. The restrictions set forth in this Protective Order shall not apply to
2 Material or information disclosed in a manner that does not violate this Protective
3 Order.

4 13. Within sixty (60) days of the final termination of this litigation, including
5 all appeals, the Parties agree to destroy or return to the producing party all copies,
6 including electronic copies, of "CONFIDENTIAL" Materials produced in this
7 litigation, except that electronic copies of deleted emails or documents on a non-
8 producing Party's servers or otherwise electronically stored may be deleted pursuant to
9 the ordinary course of the Party's operations. This provision shall not apply to copies
10 of the pleadings or other court filings, working files, claim files, litigation files, or
11 similar material maintained by a Party or its counsel in the ordinary course of
12 maintaining and preserving files related to this litigation and shall not apply to prevent
13 counsel from retaining "CONFIDENTIAL" Materials necessary to comply with the
14 rules of professional conduct. A Party may also maintain copies of
15 "CONFIDENTIAL" Materials pursuant to the express written agreement of the Party
16 that designated the Materials as "CONFIDENTIAL."

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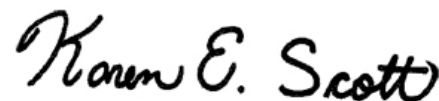
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1 14. Any Party may bring a motion to challenge the designation of Material or
2 information as "CONFIDENTIAL." Any Party may also bring a motion to challenge
3 the limitations placed upon the use of any particular Material or information designated
4 as "CONFIDENTIAL." The Party that designated the Material or information as
5 "CONFIDENTIAL" bears the burden of proving that the Material or information is
6 "CONFIDENTIAL" and entitled to the protections of this Protective Order. Any
7 Materials or information challenged pursuant to this paragraph shall be treated as
8 "CONFIDENTIAL" pending the Court's ruling on the motion brought under this
9 paragraph. The Motion shall comply with Local Rule 37-1 or the Magistrate Judge's
10 informal discovery conference procedures.

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12 **IT IS SO ORDERED.**

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14 Dated: May 11, 2023



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16 KAREN E. SCOTT
17 United States Magistrate Judge
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EXHIBIT A

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

TRAVELERS PROPERTY
CASUALTY COMPANY OF
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Plaintiff,

v.

LIBERTY MUTUAL FIRE
INSURANCE COMPANY, et al.,

Defendants

Case No. 8:22-cv-00930-SSS-KES

**DECLARATION REGARDING
CONFIDENTIALITY**

I hereby declare that:

1. I have been provided with a copy of the Protective Order for the case of Travelers Property Casualty Company of America v. Liberty Mutual Fire Insurance Company, bearing the case number 8:22-cv-00930-SSS-KES for the United States District Court for the Central District of California. I have read the Protective Order, understand the terms of the Protective Order, and agree to be bound by the terms of the Protective Order.

2. As required by the terms of the Protective Order, I will not make or retain possession of copies of any Materials or information designated "CONFIDENTIAL" and I will not use, disclose, make available, or otherwise communicate confidential Materials or information in any manner except for the purpose of my acting as an expert, consultant, mediator, and/or witness in the above-entitled litigation.

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1 3. I acknowledge that my failure to abide by the terms of the Protective
2 Order and this Declaration may subject me to penalties if I am found to be in contempt
3 of Court.

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5 I declare under penalty of perjury under the laws of the State of California that
6 the foregoing is true and correct.

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8 _____
9 (Date of Signature)

(City, State where Signed)

(Signature of Declarant)

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11 _____
12 (Print Name of Declarant)